

PATENT
Docket No. 225.00010124IN THE UNITED STATES PATENT AND TRADEMARK OFFICERECEIVED
CENTRAL FAX CENTER

APR - 7 2004

OFFICIAL

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| Applicant(s): Schmidt et al. |) | Group Art Unit: | 3743 |
| |) | | |
| Serial No.: 10/695,436 |) | Examiner: | Unassigned |
| Confirmation No.: 4462 |) | | |
| |) | | |
| Filed: 28 October 2003 |) | | |
| |) | | |
| For: CONTROL OF RESPIRATORY OXYGEN DELIVERY |) | | |

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In compliance with the duty imposed by 37 C.F.R. § 1.56, and in accordance with C.F.R. §§ 1.97 *et. seq.*, the materials enclosed herewith are brought to the attention of the Examiner as possibly being of interest in connection with the above-identified patent application. Per M.P.E.P. § 609, the information cited in the present Information Disclosure Statement shall not be construed to be an admission that the information is, or is considered to be, material to patentability. Consideration of each of the documents listed on the attached 1449 form(s) is respectfully requested. As this patent application was filed after June 30, 2003, copies of the U.S. patents and U.S. patent application publications listed on the attached 1449 form(s) have not been submitted). Pursuant to the provisions of M.P.E.P. §609, Applicants further request that a copy of the 1449 form(s), marked as being considered and initialed by the Examiner, be returned with the next Official Communication.

Also enclosed is a copy of the International Search Report issued in the corresponding international patent application (PCT/US98/15490).

Information Disclosure Statement

Page 2 of 2

Applicant(s): Schmidt et al.

Serial No.: 10/695,436

Confirmation No.: 4462

Filed: 28 October 2003

For: CONTROL OF RESPIRATORY OXYGEN DELIVERY

This application is a continuation of U.S. Patent Application Serial No. 10/370,799, filed 20 February 2003. In accordance with 37 C.F.R. §1.98(d), copies of documents previously cited by or submitted to the U.S. Patent and Trademark Office in connection with Applicants' prior application(s) listed above, are not included herewith.

It is believed that no fee is due, as this Information Disclosure Statement is filed prior to the receipt of any Action on the merits. However, in the event a fee is due, please charge any fee or credit any overpayment to Account No. 13-4895.

The Examiner is invited to contact Applicants' Representatives at the below-listed telephone number, if they can be of any assistance during prosecution of the present application.

Respectfully submitted for

Schmidt et al.

By
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Facsimile: (612)305-1228
Customer Number 26813

CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper is being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 7th day of April, 2004, at 4:00pm (Central Time).

Jacquelyn K. Torborg
JACQUELYN K. TORBORG

7 APRIL 2004
Date

By:

Kevin W. Raasch
Kevin W. Raasch
Reg. No. 35,651
Direct Dial (612)305-1218

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

| | | |
|--|--|--|
| Applicant's or agent's file reference 225.00010220 | FOR FURTHER ACTION <small>see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, Item 5 below.</small> | |
| International application No. PCT/US 98/ 15490 | International filing date (day/month/year) 24/07/1998 | (Earliest) Priority Date (day/month/year) 25/07/1997 |
| Applicant MINNESOTA INNOVATIVE TECHNOLOGIES & INS. ...et al. | | |

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 5 sheets.
☒ It is also accompanied by a copy of each prior art document cited in this report.

1. ☒ Certain claims were found unsearchable (see Box I).
2. ☒ Unity of invention is lacking (see Box II).
3. ☐ The international application contains disclosure of a nucleotide and/or amino acid sequence listing and the international search was carried out on the basis of the sequence listing
 - ☐ filed with the international application.
 - ☐ furnished by the applicant separately from the international application,
 - ☐ but not accompanied by a statement to the effect that it did not include matter going beyond the disclosure in the international application as filed.
 - ☐ Transcribed by this Authority

4. With regard to the title,
 - ☐ the text is approved as submitted by the applicant.
 - ☒ the text has been established by this Authority to read as follows:
CONTROL DEVICE FOR SUPPLYING SUPPLEMENTAL RESPIRATORY OXYGEN.

5. With regard to the abstract,
 - ☐ the text is approved as submitted by the applicant.
 - ☒ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this International Search Report, submit comments to this Authority.

6. The figure of the drawings to be published with the abstract is:
 - Figure No. 1 ☒ as suggested by the applicant. ☐ None of the figures.
 - ☐ because the applicant failed to suggest a figure.
 - ☐ because this figure better characterizes the invention.

Form PCT/ISA/210 (first sheet) (July 1992)

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US 98/15490

Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☒ Claims Nos.: 1-12, 13-14, 15-28, 29-32, 36
because they relate to subject matter not required to be searched by this Authority, namely:

Rule 39.1(iv) PCT - Method for treatment of the human or animal body by therapy.
2. ☐ Claims Nos.:
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1. Claims: 33-35
Method of sensing variations in respiration of a patient.
 2. Claims: 37-44, 45-51, 52, 59
System for controlling supplemental oxygen delivery.
1. ☒ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
 2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
 3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
 4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
- ☒ No protest accompanied the payment of additional search fees.

Form PCTISA/210 (continuation of first sheet (1)) (July 1992)

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US 98/15490

Box III TEXT OF THE ABSTRACT (Continuation of Item 5 of the first sheet)

The abstract has been changed as follows:

Line 3: after "sensor" insert (14)
Line 4: after "oxygen" insert (20)
Line 5: after "valve" insert (26)
after "oxygen" insert (20)
Line 6: after "controller" insert (10)
after "valve" insert (26)
after "controller" insert (10)
Line 7: after "valve" insert (26)
Line 8: after "sensor" insert (14)

INTERNATIONAL SEARCH REPORT

International Application No.
PCT/US 98/15490

A. CLASSIFICATION OF SUBJECT MATTER
IPC 6 A61M16/00

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 6 A61M

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

C. DOCUMENTS CONSIDERED TO BE RELEVANT

| Category * | Citation of document, with indication, where appropriate, of the relevant passages | Relevant to claim No. |
|------------|---|---------------------------|
| X | EP 0 606 687 A (PURITAN BENNETT CORP) 20 July 1994 | 33-35 |
| Y | see abstract; figures 1-3 | 40-42, 47-49, 52-58 |
| | see column 3, line 21 - column 6, line 5 | |
| X | US 4 648 395 A (SATO TORU ET AL) 10 March 1987 | 33-35 |
| | see abstract; figures see column 6, line 42 - line 55 see column 9, line 1 - column 10, line 12 see column 11, line 26 - line 34 see column 12, line 11 - line 23 | |
| | --- -/-- | |

☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

* Special categories of cited documents:

- *A* document defining the general state of the art which is not considered to be of particular relevance
- *E* earlier document but published on or after the international filing date
- *L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- *O* document referring to an oral disclosure, use, exhibition or other means
- *P* document published prior to the international filing date but later than the priority date claimed

T later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

X document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

Y document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art

Z document member of the same patent family

Date of the actual completion of the international search

21 December 1998

Date of mailing of the international search report

06.01.99

Name and mailing address of the ISA

European Patent Office, P.B. 5816 Patentlaan 2
NL - 2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl
Fax: (+31-70) 340-3016

Authorized officer

Zeinstra, H

INTERNATIONAL SEARCH REPORT

Int. Application No.
PCT/US 98/15490

| C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT | | |
|--|---|---------------------------|
| Category * | Citation of document, with indication, where appropriate, of the relevant passages | Relevant to claim No. |
| X | EP 0 099 283 A (FRANCE PROD OXYGENES CO) 25 January 1984 see abstract; figure 1 see page 2, line 36 - page 4, line 18 --- | 33-35 |
| X | DE 43 09 923 A (BOESCH WILHELM ;WUERTEMBERGER GEBHARD DR (DE)) 29 September 1994 | 37-39, 43-46, 50 |
| Y | see abstract; figures see column 5, line 42 - column 7, line 12 ----- | 40-42, 47-49, 52-58 |

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 98/15490

| Patent document cited in search report | Publication date | Patent family member(s) | Publication date |
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Form PCT/ISA/210 (patent family annex) (July 1992)

OMB No. 0651-0011

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| | | |
|---|--|------------------------|
| INFORMATION DISCLOSURE STATEMENT | Atty. Docket No.: 225.00010124 | Serial No.: 10/695,436 |
| | Applicant(s): Schmidt et al. | Confirmation No.: 4462 |
| | Application Filing Date: 28 October 2003 | Group: 3743 |
| | Information Disclosure Statement mailed: <u>7</u> April 2004 | |

U.S. PATENT DOCUMENTS

| Examiner Initial | Copy Enclosed | Document Number | Date | Name | Class | Subclass | Filing Date If Appropriate |
|------------------|---------------|-----------------|----------|-----------------|-------|----------|----------------------------|
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| EXAMINER | Date Considered |
| <small>*Examiner: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.</small> | |

OMB No. 0651-0011

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Date Considered

*Examiner: Initial if citation considered, whether or not citation is in conformance with MPEP 609: Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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| EXAMINER | Date Considered |
| <small>*Examiner: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.</small> | |

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| | Information Disclosure Statement mailed: <u>7</u> April 2004 | |

| Examiner Initial | Copy Enclosed | Document Number | Date | Name | Class | Subclass | Filing Date If Appropriate |
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EXAMINER

Date Considered

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OMB No. 0651-0011

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| | | |
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| | Application Filing Date: 28 October 2003 | Group: 3743 |
| | Information Disclosure Statement mailed: <u>7</u> April 2004 | |

| Examiner Initial | Copy Enclosed | Document Number | Date | Name | Class | Subclass | Filing Date If Appropriate |
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| Examiner Initial | Copy Enclosed | Document Number | Date | Country | Class | Subclass | Translation | |
|------------------|---------------|--|----------|---------|-------|----------|-------------|----|
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| | | WO 99/04841 | 02/04/99 | PCT | | | | |

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| Examiner Initial | Copy Enclosed | Document Description |
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Date Considered

*Examiner: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

| | | |
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| | Applicant(s): Schmidt et al. | Confirmation No.: 4462 |
| | Application Filing Date: 28 October 2003 | Group: 3743 |
| | Information Disclosure Statement mailed: <u>7</u> April 2004 | |

| Examiner Initial | Copy Enclosed | Document Description |
|---------------------|------------------|---|
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| INFORMATION DISCLOSURE STATEMENT | Atty. Docket No.: 225.00010124 | Serial No.: 10/695,436 |
| | Applicant(s): Schmidt et al. | Confirmation No.: 4462 |
| | Application Filing Date: 28 October 2003 | Group: 3743 |
| | Information Disclosure Statement mailed: <u>7</u> April 2004 | |

| Examiner Initial | Copy Enclosed | Document Description |
|---------------------|------------------|--|
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